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FAX COVER SHEET

From: Nicholas Zachariades

Date: Sept. 16, 2004

PLEASE DELIVER 11 PAGE(S) (including cover sheet) TO:

6460-41

Name: Examiner Winn
Company: USPTOFax Number: 703-872-9306
Phone Number:

Please call if you do not receive all the pages.

Comments/Special Instructions

Appln. No.	10/075,823
Applicant	DEBINSKI, et al.
Filed	February 12, 2002
TC/A.U.	1644
Examiner	Phuong Huynh
Docket No.	6460-41

Per our phone conversation today, September 16, 2004, attached to this coversheet are the papers that were filed on March 15, 2004 for the above mentioned case. Please find attached the Transmittal Letter, Postcard, Response, Petition for Retroactive Extension of Time, and original office action. Please let us know when you have received this fax and what our next course of action should be.

Regards,
Gail Ochocki
Secretary to Nicholas A. Zachariades

The information contained in this transmission may be a confidential attorney-client communication or may otherwise be privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this transmittal is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original transmittal to us by mail. Thank you.

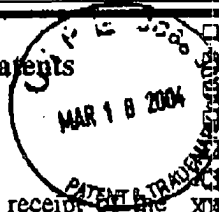
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(WP197383;1)

Serial No.: 10/075,823 Docket No.: 6460-41
 Client: Penn State

Commissioner for Patents



Sir:

Please acknowledge receipt of the paper(s) noted hereon by stamping the date received and returning this card to the undersigned.

Respectfully,

SAK/gpo 3/15/04
 AKERMAN SENTERFITT

- ☐ Application
- ☐ Submission of Formal Drawings
- ☐ Sheets of Drawing _____
- ☐ Declaration/POA
- ☐ Fee (\$ _____)
- ☒ Amendment/Response
- ☒ Request for Extension of Time
- ☐ Assignment & Recordation Coversheet
- ☐ Copy of Notice of Missing Parts
- ☒ Transmittal Letter
- ☐ PTOL-85 Fee Transmittal
- ☐ IDS, PTO/SB008A&B, Refs.
- ☐ _____
- ☐ _____
- Express Mail No. _____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of DEBINSKI, ET AL.

Serial No.: 10/075,823

Examiner: Phuong Huynh

Date Filed: February 12, 2002

Group: 1644 **RECEIVED**
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For: VEGF-D EXPRESSION IN BRAIN CANCER

SEP 16 2004

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

March 15, 2004
Stanley A. Kim, Ph.D., Esq.

Reg. No. 42,730

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please find enclosed for filing the following:

- ☒ Response
- ☒ Petition for Retroactive Extension of Time
- ☒ One postcard.

Please charge any underpayment or credit any overpayment to Deposit Account No. 50-0951. This transmittal letter is submitted in duplicate.

Respectfully submitted,

AKERMAN SENTERFITT

Dated: March 15, 2004
Stanley A. Kim, Ph.D., Esq.

Registration No. 42,730

222 Lakeview Avenue, Suite 400

West Palm Beach, FL 33402-3188

Tel: 561-653-5000

Docket No. 6450-41

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 16 2004

In re: Application of DEBINSKI, et al.

Application No.: 10/075,823

Examiner: Phuong Huynh

Date filed: February 12, 2002

Group: 1644

For: VEGF-D EXPRESSION IN BRAIN CANCER

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Mail Stop Patent Ext., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on


March 15, 2004
Stanley A. Kim, Ph.D., Esq.PETITION FOR RETROACTIVE EXTENSION OF TIME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Petition for Retroactive Extension of Time pursuant to 37 CFR § 1.136. The Commissioner is hereby authorized to charge the fee in the amount of \$55.00 for a one month extension of time, as well as any underpayment in fees, to Deposit Account No. 50-0951. This transmittal letter is submitted in duplicate.

Respectfully submitted,

Date: March 15, 2004
Stanley A. Kim, Esq.
Reg. No. 42,730
AKERMAN SENTERFITT
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000

Docket No. 6460-41

{WP172508;1}



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,823	02/12/2002	Waldemar Debinski	6460-41	8785
7593 01/16/2004				
Stanley A. Kirr, Ph.D., Esq. Akerman, Senterfitt & Eidson, P.A. 222 Lakeview Avenue, Suite 400, P.O. Box 3188 West Palm Beach, FL 33402-3188				
			EXAMINER HUYNH, PHUONG N	
			ART UNIT 1644	PAPER NUMBER

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETEDRECEIVED
DOCKETING

JAN 21 2004

Office Action Summary	Application No.	Applicant(s)	
	10/075,823	DEBINSKI ET AL.	
	Examiner	Art Unit	
	Phuong Huynh	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: |

Application/Control Number: 10/075,823

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Art Unit: 1644

DETAILED ACTION

I. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.

II. Claims 1-43 are pending.

Election/Restrictions

III. Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 2-8, drawn to a method for detecting a cancer in a brain tissue by analyzing the brain tissue sample for a VEGF-D nucleic acid marker using VEGF-D nucleic acid, or RNA, classified in Class 435, subclass 6.
2. Claims 9-18, drawn to a method for detecting a cancer in a brain tissue by analyzing the brain tissue sample for a VEGF-D protein marker using a probe that specifically binds to the VEGF-D protein, a probe that is a VEGF-D antibody, classified in Class 435, subclass 7.1.
3. Claims 19-22, drawn to a method of modulating VEGF-D gene expression in a brain cancer cell using oligonucleotide, antisense oligonucleotide, classified in Class 536, subclass 24.5; Class 514, subclass 44.
4. Claims 26-28, drawn to a method of identifying a test compound that modulates expression of VEGF-D gene in a brain cancer cell by detecting VEGF-D nucleic acid marker in the cell, classified in Class 435, subclass 6, and 7.23.
5. Claims 29-32, drawn to a method of identifying a test compound that modulates expression of VEGF-D gene in a brain cancer cell by detecting VEGF-D protein marker in the cell, classified in Class 435, subclass 7.1, and 7.21.

Application/Control Number: 10/075,823

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Art Unit: 1644

6. Claims 33-43, drawn to a method of inhibiting angiogenesis associated with a brain cancer in a subject by administering a molecule to the central nervous system wherein the molecule is an antibody, classified in Class 424, subclass 130.1.

Linking claim 1 will be examined along with Group 1, claims 2-8 or Group 2, claims 9-18.

Linking claims 23-25 will be examined along with Group 4, claims 26-28 or Group 5, claims 29-32.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups 1-6 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the methods as claimed using distinct products such as nucleic acid and antibody differs with respect to their method steps and therapeutic endpoints. Therefore, they are patentably distinct.

- IV. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter. Further, even though in some cases the classification is shared, a different field of search would be required based upon the structurally distinct products recited in the various methods comprising the distinct method steps. Further, a prior art search also requires a literature search. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.
- V. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
- VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

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Art Unit: 1644

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

- VII. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 872-9306.

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

January 12, 2004

Christina Chan
CHRISTINA CHAN
ASSISTANT PATENT EXAMINER
TECHNOLOGY CENTER 1600